

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.No.5559 of 2018

&

C.M.P.Nos.6865 & 6866 of 2018

G.Sampathkumar, I.P.S, Petitioner

-vs-

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government
Home (SC) Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Registrar,
Central Administrative Tribunal
Chennai Bench,
High Court Campus,
Chennai - 600 104

..... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue of Writ of Certiorari to call for the records relating to the impugned orders passed by the 2nd respondent in O.A.No.310/1653 of 2014 dated 11.09.2015 upholding the charge memo issued by the 1st respondent in letter No.HSC5/248-2/2014 dated 09.04.2014 and to quash the same.

For Petitioner : Mr.G.Sankaran

For Respondents: Mr.P.H.Aravinth Pandian
Assistant Advocate General
assisted by Mrs.A.Sri Jeyanthi
Special Government Pleader

O R D E R

[Judgment of the Court was delivered by P.T.ASHA,J.]

The above Writ Petition has been filed challenging the order passed by the Central Administrative Tribunal, Chennai Bench in O.A.No.310/1653 of 2014. The facts in brief necessary to dispose of the above Writ Petition are as follows:

2.The Writ petitioner was appointed as a Deputy Superintendent of Police through the Tamil Nadu Public Service

Commission on 16.12.1999. He was conferred with I.P.S in the year 2009 and was also placed in the recommendation roll for the award of "President's Police Medal" for distinguished service and Police Medal for meritorious service on the occasion of the Independence Day 2013.

3.The Writ petitioner was embroiled in a controversy during his investigation of the betting scandal in the IPL match. A charge memo was issued to him containing charges of 8 counts framed under Rule 8 of All India Services (D & A) Rules, 1969, of which 6 charges were for interfering with the media, the 7th for collecting money through one Ranka and the 8th for not informing the transaction in a bank.

4.The said charge memo was challenged by the Writ petitioner before the Central Administrative Tribunal in O.A.No.1653 of 2014. The challenge was on the ground that the provisions of Rule 7 of All India Service Conduct Rules would not be attracted as per ratio laid down by the Honourable Supreme Court in the case reported in 2014 (10) SCC 589 - Vijay Shankar Pandey Vs. Union of India and another. The Central Administrative Tribunal by its order dated 11.09.2015 proceeded to dispose of the original application by holding that it was premature to apply the ratio of the Vijay Shankar Pandey's case to the facts of the petitioner's case and that the Writ petitioner should participate in the enquiry which had been commenced and establish his innocence before the enquiry officer.

5.The Tribunal taking into consideration the fact that the enquiry proceeded ex parte directed the respondent to reopen the enquiry. The Tribunal permitted the petitioner to cross examine the witness and thereafter let in his evidence. It is this order that is the subject matter of challenge in the above Writ Petition.

6.The main ground on which the charge memo has been questioned by the Writ petitioner is that the charge memo has not been approved by the Disciplinary Authority namely the Honourable Chief Minister. In a similar matter reported in CDJ 2017 MHC 046 - Pramodkumar I.P.S Vs. State of Tamil Nadu Rep. By Secretary to Government (Home), the Division Bench of this Court had set aside the charge memo on the ground that the charge memo has not been approved by the Disciplinary Authority. This order was taken up on challenge to the Honourable Supreme Court by the State and the Honourable Supreme Court confirmed the order passed by the Division Bench by observing that the mandatory requirement of Rule 8 (4) of All India Service Conduct (D & A) Rules, was not followed and the charge memo is drawn up without the approval of the Disciplinary Authority. Ultimately, the order of the Division Bench quashing the charge memo was upheld by the Honourable Supreme Court.

7.However, while dismissing the appeal, the Honourable Supreme Court had given a liberty to the State to issue a fresh charge memo after taking due approval from the Disciplinary Authority. The facts of Pramodkumar's case would squarely apply to the facts of the instant case as even here the prior approval of the disciplinary authority had not been obtained before the charge memo was issued.

8.Consequently the Writ Petition is allowed and the order of the 2nd respondent in O.A.No.310/1653 of 2014 is quashed.

9.However as held by the Honourable Supreme Court in Pramodkumar's case liberty is given to the respondents to issue a fresh charge memo after obtaining the prior approval of the Disciplinary Authority.

The above Writ Petition is disposed of on the above lines. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To,

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government
Home (SC) Department,
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Chennai - 600 009.

2.The Registrar,
Central Administrative Tribunal
Chennai Bench, High Court Campus,
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+lcc to the Government Pleader, S.R.No. 47526

W.P.No.5559 of 2018 &
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PP(CO)
GN(29/07/2019)